

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- against -

\$66,272 IN UNITED STATES CURRENCY,

Defendant.

21-cv-5285 (JGK)

MEMORANDUM OPINION
AND ORDER

JOHN G. KOELTL, District Judge:


By letter dated July 8, 2021, Nzelo Okafor has asked for the appointment of counsel in this civil forfeiture case. Mr. Okafor does not qualify for the appointment of counsel at public expense under 18 U.S.C. § 983(b) in view of the fact that the forfeiture does not concern the forfeiture of real property and Mr. Okafor is represented by retained counsel in his criminal case. See United States v. Real Property and Premises, 05-cv-5240, 2009 WL 1362827, at * 1 (E.D.N.Y. May 14, 2009). While the Court could put Mr. Okafor in line for representation by pro bono counsel in this civil matter, the standards set forth by the Court of Appeals in a civil proceeding for such pro bono representation require consideration of the showing of a likelihood of success, the litigant's ability to obtain other representation, the litigant's ability to handle the case without appointed counsel, the complexity of the legal issues, and the need for skilled cross-examination. Cooper v. A. Sargenti Co., 877 F.2d 170, 172 (2d Cir. 1989). Mr. Okafor has

not shown the likelihood of success in his case, which the Court of Appeals has stressed is a "threshold requirement." Id. (quoting Hodge v. Police Officers, 802 F.2d 58, 61 (2d Cir. 1986)). Moreover, Mr. Okafor also has shown the ability to obtain other representation, as demonstrated by his retained counsel in his criminal matter. It is inappropriate to appoint pro bono counsel at this time because Mr. Okafor has not shown a likelihood of success and he has demonstrated the ability to obtain counsel in his criminal matter.

Therefore, the request for the appointment of counsel is denied without prejudice to any subsequent applications upon a proper showing.

SO ORDERED.

**Dated: New York, New York
July 16, 2021**



**John G. Koeltl
United States District Judge**